

November 19, 2021

Casey Anderson, Chair  
and Members of the Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
2425 Reedie Drive  
Wheaton, MD 20902

Re: November 17, 2021 Request of Garrett Park Estates- White Flint Park Citizens  
Association for Stay of Local Map Amendment H-143

Dear Chairman Anderson and Members of the Montgomery County Planning Board:

On behalf of our clients, EYA Development LLC and BL Strathmore LLC (collectively, the “Applicants”), the applicants for Local Map Amendment H-143 (“LMA”), the purpose of this letter is to respond and object to the November 17, 2021 request of Garrett Park Estates- White Flint Park Citizens Association (“Garrett Park Estates”) for a stay of the LMA proceedings and the imposition of a requirement that a new Local Area Transportation Study (“LATR”) be performed. As discussed more fully below, the LMA, which has been pending since early August, is in compliance with all regulatory review requirements and has fully satisfied the Planning Board’s LATR policies. Therefore, contrary to Garrett Park Estates’ representations, the granting of Garrett Park Estates’ request would, in fact, be the arbitrary and capricious action, not Planning Board action on the LMA.

The Traffic Study associated with the LMA was originally submitted on December 18, 2020 (“Traffic Study”), and, as your Staff has noted, was reviewed under the 2016-2020 *Subdivision Staging Policy* because the scope of the study was approved in November 2020, prior to the 2020-2024 *Growth and Infrastructure Policy* going into effect on January 1, 2021 (“Growth Policy”). In accordance with the Planning Board’s *Traffic Counts During Covid 19 Pandemic- Policy Update Memorandum* dated September 17, 2020 (“Pandemic Memorandum”), the traffic counts for the study were conducted on October 6, 2020 and November 18, 2020, and a growth factor of 1.07 was subsequently applied to account for the pandemic. Additionally, and contrary to Garrett Park Estate’s allegations, in recognition of the fact that the Academy of the Holy Cross was operating under a hybrid schedule at the time of the counts, additional adjustments were made to the traffic analysis to account for school traffic at peak enrollment, as detailed on page 13 of the Traffic Study.

For a variety of reasons, the formal acceptance of the LMA was not completed until August 4, 2021. In response to comments received by Technical Staff as part of their review of the LMA and Traffic Study, an updated study was submitted on August 24, 2021. Per the Staff Report posted for the original Planning Board hearing date of November 18, 2021 (“Staff Report”), the

submitted “LATR capacity analysis was consistent with the Department’s LATR Guidelines” and, as demonstrated by the study and verified by Staff, “all intersections within the study area will operate within the policy area’s congestion standards” after development of the project. *See Staff Report, pp. 14-15.*

Importantly, Garrett Park Estates’ request does not allege that there were any errors in the analysis contained in the Traffic Study or that the Applicants failed in any way to comply with the LATR requirements, which allegations, even if made, would be baseless. Instead, Garrett Park Estates’ request directly challenges the policy adopted in the Pandemic Memorandum allowing traffic studies to continue during the pandemic using current counts and the application of an established growth factor. Granting Garrett Park Estates’ request would therefore essentially be an admission on the part of the Planning Board that its policy, under which numerous other projects have been processed and approved, and under which the LMA proceeded, is erroneous. Moreover, treating the LMA differently than other projects approved under the Pandemic Memorandum, for which supplemental counts were not required, would be arbitrary and in violation of the Applicant’s equal protection rights.

Additionally, it should be noted that, had the Traffic Study been completed after January 1, 2021 and subjected to the Growth Policy currently in effect, *no traffic counts would have been required.* As was recommended by this Planning Board and approved by the County Council, as part of the Growth Policy the subject property was moved from an Orange Policy Area into a Red Policy Area, given its proximity to transit. Therefore, a Traffic Study for the property under the Growth Policy, which will be required at the time of preliminary plan, will remove the focus on vehicular counts and increase the scope of analysis of the multimodal environment. This analysis will include an evaluation of the pedestrian, bicycle, and transit infrastructure, as well as a safety analysis to assess Vision Zero surrounding the site, but will not include additional vehicular analysis. Therefore, requiring additional traffic counts at this point in time, when none are required under the Growth Policy, would be counter to the County’s current policies and would serve no logical purpose.

Finally, it is important to note that, in an abundance of caution, the Applicants’ expert transportation consultants also prepared a supplemental analysis that used an alternate methodology to establish expected non-pandemic traffic volumes. This analysis was much more conservative than that required by the LATR guidelines, and identified the need for mitigation measures in the way of a new leftbound turn lane on Strathmore Avenue at the project and school’s new main entrance, as well as the installation of a traffic signal at this intersection. The institution of these measures, in concert with the relocation of the Academy of the Holy Cross’ main entrance away from Stillwater Avenue, were demonstrated in this analysis to dramatically improve traffic conditions over existing conditions, in some instances reducing current delays from 250 seconds to 9, as more fully explained in that analysis. This analysis was reviewed and approved by both the Montgomery County Department of Transportation and the Maryland State Highway Administration. as demonstrated by email correspondence between a Mr. Doug Burdin and these agencies, which is attached to the Staff Report. In this regard, the Applicants have already gone above and beyond the required LATR analysis in order to ensure that traffic concerns are addressed



and a very conservative analysis of future, post-pandemic traffic, and potential mitigation measures, are provided.

While the Applicants met with representatives of Garrett Park Estates on February 12<sup>th</sup> and October 4<sup>th</sup> and have attempted to address their questions regarding the traffic analysis both in those meetings and in the formal responses to their written questions included as an attachment to the Staff Report, what Garrett Park Estates is now requesting is a deviation from standard practice and established policies, which cannot be supported by the Planning Board. As such, and for the reasons outlined above, we respectfully request that the Planning Board deny Garrett Park Estates' request and schedule the LMA for a Planning Board hearing as soon as the accessibility issues that caused the postponement of the November 18<sup>th</sup> hearing can be appropriately addressed.

Thank you for your consideration. If you have any questions, or would like any additional information, please feel free to contact us.

Sincerely,

  
Erin E. Girard

cc: Montgomery County Office of Zoning and Administrative Hearings  
Mayor Kacky Chantry  
Councilman Andrew Friedson  
Matthew Folden  
Tamika Graham